

LAW OFFICES OF DALE K. GALIPO

Dale K. Galipo (SBN 144074)
E-mail: dalekgalipo@yahoo.com
Hang D. Le (SBN 293450)
E-mail: hlee@galipolaw.com
21800 Burbank Blvd., Suite 310
Woodland Hills, CA 91367
Tel: (818) 347-3333; Fax: (818) 347-4118

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JENNIE QUAN, individually and as
successor in interest to BENJAMIN
CHIN, deceased,

Plaintiffs,

vs.

COUNTY OF LOS ANGELES;
MARISOL BARAJAS; HECTOR
VAZQUEZ; and DOES 3-10, inclusive,

Defendants.

Case No. 2:24-cv-04805-MCS-KS

Assigned to:

Hon Mark C. Scarsi
Hon. Mag. Judge Karen L. Stevenson

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION IN LIMINE NO. 3 TO
EXCLUDE OPINIONS OF DEFENSE
EXPERT JOHN MARAHEBIAN, MD
NOT DISCLOSED IN REBUTTAL
REPORT**

Final Pretrial Conference:

Date: January 26, 2026
Time: 2:00 p.m.
Crtrm: 7C

Trial:

Date: February 10, 2026

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This civil rights case arises from the officer-involved shooting death of
4 Benjamin Chin on June 19, 2023 by County of Los Angeles Sheriff's Department
5 Deputies Marisol Barajas and Hector Vazquez. In Plaintiff's initial expert disclosures,
6 Plaintiff disclosed the report of retained forensic pathology expert, Dr. Bennet Omalu,
7 to opine on the the nature of Decedent's wounds, including a trajectory analysis of his
8 gunshot wounds, and Decedent's pain and suffering as a result of the incident.
9 Defendants subsequently retained Dr. John Marehbian, a neurologist, the rebut Dr.
10 Omalu's opinions that Decedent continued to experience pain and suffering even after
11 he was admitted into the hospital and was documented with a Glasgow Coma Scale of
12 3/15. However, approximately a month later at Dr. Marehbian's deposition, Dr.
13 Marehbian offered new opinions that had not been in his report in addition to the
14 opinions contained in his report, including opining that before Decedent was admitted
15 into the hospital with a Glasgow Coma Sclae of 3/15, Decedent experienced variable
16 levels of pain and suffering, such that at times he did not experience any pain and
17 suffering despite still be awake and responsive. Plaintiff now moves to exclude any
18 and all opinions by Dr. Marehbian that were not timely disclosed in his initial rebuttal
19 report.

20 **II. LEGAL STANDARD**

21 "Although Rule 26(e) obliges a party to 'supplement or correct' its disclosures
22 upon information later acquired, this 'does not give license to sandbag one's
23 opponent with claims and issues which should have been included in the expert
24 witness' report..." *Plumley v. Mockett*, 836 F. Supp. 2d 1053, 1062 (C.D. Cal. 2010).
25 "[A] supplemental expert report that states additional opinions or seeks to strengthen
26 or deepen opinions expressed in the original report is beyond the scope of proper
27 supplementation and subject to exclusion under Rule 37(c)." *Id.* (cleaned up) (citing
28

1 *Cohlmia v. Ardent Health Servs., LLC*, 254 F.R.D. 426, 433 (N.D. Okla.2008)). Rule
2 37(c)(2) “give teeth” to the disclosure requirements under Rule 26(a) “by forbidding
3 the use at trial of any information required to be disclosed” that was not properly
4 disclosed. *Yeti by Molly, Ltd. v. Deckers Outdoor Corp.*, 259 F.3d 1101, 1106 (9th
5 Cir. 2001)

6 **III. DR. MAREHBIAN’S UNTIMELY OPINIONS SHOULD BE EXCLUDED**

7 Dr. Marehbian’s report states that it “specifically addresses Dr. Omalu’s
8 conclusions concereng the presence and duration of conscious pain and suffering
9 experienced by Mr. Benjamin Chin.” (Ex. 5 to Le Decl., Marehbian Report at 1). His
10 report goes on to specifically rebut Dr. Omalu’s contention that Decedent
11 experienced pain and suffering starting when he first encountered law enforcement
12 and ending with “the complete cessation of al bodily functions, including cardiac and
13 respiratory arrest.” Dr. Marehbian opines that Decedent experienced “at most, a
14 short-lived period of pain in the immediate after of the injury” and that by the time
15 Decedent was admitted into the hospital with a Glasgow Coma Scale score of 3/15,
16 “there was a total loss of consciousness” and therefore, he could not have
17 experienced pain and suffering after that time. (*Id.* at 5, 8). Later at his deposition,
18 Dr. Marehbian offered new opinions regarding the variable levels of pain Decedent
19 experienced while still awake and responsive. This opinion is untimely as it was not
20 expressed in any way in his report. Accordingly, Dr. Marehbian should be precluded
21 from offering such new opinions, pursuant to Rule 37(c).

22 **IV. CONCLUSION**

23 For the foregoing reasons, Plaintiff respectfully requests the Court preclude
24 defense expert Dr. John Marehbian from testifying on subjects or offering opinions
25 that were not initially disclosed in his rebuttal report.
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1 Respectfully submitted,

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3 DATED: January 5, 2026

LAW OFFICES OF DALE K. GALIPO

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5 By /s/ *Hang D. Le*

6 Dale K. Galipo

7 Hang D. Le

8 Attorneys for Plaintiff
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